

REMARKS

Claims 1-58 are pending. Claims 12, 13, and 15-58 have been canceled. Claims 59-60 have been added. No new matter has been added by way to these amendments. Support for the amendments can be found, for example, in figures 18 and 19.

Response to Communication

The Examiner has improperly added an additional requirement to the Restriction Requirement mailed on October 4, 2006 using an Office Communication mailed January 23, 2007. The Communication alleged that the response filed on November 3, 2006 was not fully responsive because "Applicants did not elect a polynucleotide that encodes a protein of Figure 2 as set forth in the Election/Restrictions." However, **no such requirement was made** in the Restriction Requirement. All that was required was that Applicants "include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention." Restriction Requirement, page 9 (emphasis added). As noted below in the reiterated response to the Restriction Requirement provided below, Applicants made the required election of an invention and identified the claims which are thought to read on this invention. As such, the original reply was fully responsive.

The Examiner's error notwithstanding, Applicants further elect the sequence of SEQ ID NO:6, from nucleotide residue numbers 23 through 2221 for the purposes of prosecution.

Restriction Requirement

The Examiner has required restriction between Groups I through XXIII. Applicants hereby elect Group II, claims 11-14, 16, and 39, without traverse.

New claims 59 and 60 depend from claim 11 and further limit the subject matter of this claim.

Applicants expressly reserve their right under 35 U.S.C. § 121 to file a divisional application directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application.

Applicants request examination of the elected subject matter on the merits.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 511582005020. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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